Deferred

THE DEPUTY CHAIRMAN: Now, we shall take up the Delhi High Court (Amendment) Bill, 2003. Now, before Shri Harin Pathak leaves the House, and ' before I take up the next Bill, let me say this about the Central Vigilance Commission Bill, 2003. Shri Suresh Pachouri would like to say something in this regard.

श्री सुरेश पचौरी (मध्य प्रदेश):महोदया, जंहा तक सेंट्रल विजिलेंस कमीशन बिल, 2003 का प्रश्न है, यह बहुत महत्वपूर्ण बिल है । इसमें कई आस्पैक्ट्स हैं चाहे सुपरिटेडट्स का मामला हो,चाहे विजिलेंस विजिलेंस एडमिनिस्ट्रेशन का मामला हो और चाहे सिंगल डॉयेरेक्टिव का मामला हो, ये सब बहुत महत्वपूर्ण बिंदु है और मैं सोचता हूं कि जो अमेंडमेंट ये ला रहे है ये सेक्रेटरी, कोडिर्शन एंड पब्लिक ग्रीवियेंसेज के मामले में और जो सबस्टीयूट करे रहें हैं "डॉयेरेक्ट" शब्द को "सुपरिटेंडेंट आफॅ पुलिस " से, तो मैं समझता हूं कि ये ऐसे बिंदु हैं कि पहले ये लोकसभा में अमेंडमेंट ले आएं , उसके बाद यहां लांए और यहां भी ऐसे समय पर लांए जब अच्छे ढंग से यहां चर्चा हो सके तो ज्यादा अच्छा होगा, ऐसा मेरा आपके जरिए सरकार से आग्रह हैं ।

उपसभापति : लोकसभा में पहले क्यों लाए ? यहां भी ला सकते हैं ।

श्री सुरेश पचौरी: महोदया, यहां भी ला सकते हैं, इसमें कोई दिक्त नहीं है लेकिन हम लोग यह चाहते हैं कि थोडा समय मिल जाए और अच्छे ढंग से इस पर चर्चा हो तो ज्यादा अच्छा रहेगा ।

उपसभापति : ठीक है । On that point, we agree with you. So, Mr. Minister, are you agreeable on taking it up later?

श्री हरिन पाठक : महोदय, लोकसभा ने CVC बिल पास कर दिया हैं, उसमें छोटे से टैक्निकल अमेंडमेंडट थे, वे भी एप्रूव करके मैं वह बिल यहां लाया था । मैं चाहता था कि इस सत्र की समाप्ति से पहले यह पास हो जाए लेकिन जैसा माननीय सदस्य का कहना है कि वे डिटेल में चर्चा करना चाहते हैं । तो हम उसमें कोई आपत्ति नहीं है । उसको बाद में भी हम ला सकते हैं ।

उपसभापति : अगले सैंशन में लेंगे । यहीं ले आइएगा, हमको कोई ऐतराज नहीं है ।Now shall take up the Delhi High Court (Amendment) Bill, 2003. श्री अरूण जेटली जी, आप हमें जरा समझाएं कि इस बिल में कोई खास बात है क्या ? या आम बिल है ?

The Delhi High Court (Amendment) Bill, 2003

विधि और न्याय मंत्री तथा वाण्ज्यि और उधोग मंत्री (श्री अरूण जेटली): मैडम, इस बिल में व्यापक चर्चा के लिए कोई खास बात नहीं हैं । जहां तक दिल्ली हाईकोर्ट की

Pecuniary या monetary jurisdiction है, वह 50 लाख से ऊपर थी। जो 5 लाख से कम वैल्यु के मुकदमे हैं, वे दिल्ली की सब-ऑडिनेट कोर्टो में दायर होते हैं और 5 लाख से ऊपर के मुकदमें हाईकोर्ट में दायर होते थे। लेकिन हाईकोर्ट में चूंकि जजों की संख्या कम होती है और केसेज लगभग एक लाख , 78 हजार हैं और जो एडमिशन डिस्ट्रिक्ट जजेज और डिस्ट्रिक्ट जजेज हैं, उनकी संख्या 100 से अधिक है और वहां पर सिविल केसेज 18,300 के करीब हैं। इसलिए हाइकोर्ट ने स्वंय अपने प्रस्वात से तय किया कि डिस्ट्रिक्ट जजेज और सब-ऑडिनेट जजेज क इस jurisdiction को बढ़ा दिया जाए और हाइकोर्ट में केवल वे मुकदमें आंए जो 20 लाख से ऊपर jurisdiction के हों। इसके तहत दिल्ली की विधानसभा ने एक कानून बनाया था , उस कानून को चुनौती दी गई और हाइकोर्ट ने अपने न्यायिक फैसलें में कहा कि यह दिल्ली लेजिस्लेटिवअसेंबली की legislatkve jurisdiction की नहीं थी और इसे पारित करने का कार्यक्षेत्र केन्द्र सरकार और संसद का है । इसलिए उन्होंने उन्होंने दिल्ली विधानसभा द्वारा बनाए गए उस कानून को अवैध घोषित कर दिया। इस कारण इस बिल को यहां पर लाया गया है। लोकसभा ने इसको एप्रूव कर दिया है। केवल जो " 5 लाख" का शब्द है, उसकी जगह "20 लाख" करना इस अमेंडमेंट का उद्येश्य हैं।

उपसभपति : इस अमेंडमेंट से लोगों को राहत मिलेगी ?

श्री अरूण जेटली : अवश्य मिलेगी। राहत इसलिए मिलेगी कि लोअर कोर्टो में और विशेष रूप से एडमिशन डिस्ट्रिक्ट जजो की अदालतोंमें इस प्रकार के मुकदमं साल-डेढ़ साल में निपट जाते हैं और हाइकोर्ट में कम से कम 10 से 15 वर्ष तक लगते हैं और इसलिए एक बहुत बड़ी मात्रा में मुकदमें वहां ट्रांसफर होगें और 4 हाई कोर्ट छोड़ कर देश के बाकी किसी हाई कोर्ट में इस प्रकार की आरिजनल साइट नहीं है जहां पर दीवानी के मुकदमे दायर होते हों। तो इसलिए अधिक मात्रा में यह मुकदमें लोअर कोर्ट में दायर होगें और जिसकी वजह से उसका शीघ्र निबटारा हो सके लोअर कोर्ट में, यह सम्भावना हैं। इन शब्दों के साथ कंसीड्रेशन के लिए यह बिल मैं सदन के सामने रखता हूं।

The question was proposed.

उपसभापति : मंत्रीजी ने बहुत ठीक तौर पर बता दिया है कि इसमें कुछ ज्यादा नहीं है और लोगों की राहत के लिए हैं। अगर इस बिल पर आप बोलना चाहें तो I have no objection, but if sombody tiics to speak on Uie improvement of the entire judiciary, "no" because he is going to bring a Bill.

SHRI ARUN J AITLEY: Madam, on tlie state of tlie judician. on Friday, on Prof. Soz's resolution, we had a very detailed discussion on that matter.

THE DEPUTY CHAIRMAN : Avery good discussion.

SHRI ARUN JATTLEY: I had assured Prof. Soz that the Government would take some actions on the suggestions that the Members had made. Yesterday itself, the Cabinet took certain decisions, which would come before this House very soon. That discussion this House just had a few days ago.

THE DEPUTY CHAIRMAN : Okay, So, Soz Saheb can now withdraw his name!

PROF. SAIF-UD-DIN SOZ (Jammu and Kashmir): Madam, I will be extremely brief.

THE DEPUTY CHAIRMAN : Let us see how extremely brief is your observation!

श्री ललितभाई मेहता (**गुजरात**): इस पर चर्चा करने की कोई आवश्यकता नहीं है क्योंकि इसमें 5 लाख की जगह 20 लाख किया गया है ।

PROF SAIF-UD-DIN SOZ: I will show utmost respect to the observation of the Deputy Chairman. I am rising here to support the bill. Yes, I accept the observation of the hon. Law Minister that it will promote a lot of welfare of the people, and therefore, I support it. Rut I have something in my mind because I saw the debate in the other House. The moment they saw 'Judiciary', all the Members wanted to speak. And 18 Members spoke and the hon, Law Minister also spoke at length. Although that discussion is not relevant here, by mentioning that discussion, I am raising a point. I will take only three or four minuts. I am one with the hon. Minister, and I am supporting this Bill, but it should have come earlier. The pecuniary aspect is welcome because the lower courts will deal with the cases involving up to 20 lakhs of rupees, and so many cases will be transferred to the subordinate judiciary. That will provide a lot of convenience to the people. But, Madam, I want to raise a question. I have said that I will finish in three or four minutes. I am just inviting the hon. Minister's attention to a fact which is already known to him, not unknown to the Government, and I am satisfied that he, on behalf of the Government, rose here to say that the Government is getting the National Judicial Commission Bill. That measure will be brought before both the House. I want to tell the House that I had no idea of a Private Member's Bill evolving a vigorous debate. Then cutting across party lines, all of us, the whole House, agreed with what I had proposed. And, now, I see a tremendous debate in the print media, and also in the electronic media. I can speak Hindi, But I cannot read Hindi. In Hindi newspaper editorials and news-items, this issue is raised. Even the people.

throughout the country, now want to talk about the judicial reforms. Therefore, I want to put stress only on one point. The hon. Minister has assured this House that he will get a measure before this House, and I would say that that measure has to be very comprehensive, and we should not leave room for corruption in future, and the process of selection has to be very—I cant say ' stringent', comprehensive and more tested. I want to remind the hon. Minister. He took the House into confidence, that since I spoke, so many things had come on telephone, that so many people told him, 'I was ill-informed, I did not know much about what the judges were doing.' I want to remind the hon,. Minister that the high court, madam, If I had time I am certainly showing utmost respect to you, your observations. ..

THE DEPUTY CHAIRMAN: I am sorry, four minutes you have taken, and you are saying you do not want to take more time!

PROF. S AIF-UD-DIN SOZ: Kindly listen to me. The temper of the time has changed. When we had the founding-fathers of the Constitution, they taught us. and some of us did not learn, that we must show utmost respect to the judiciary. But that time has changed. May be then, impeachment was not required; may be, at that time. National Judicial Commission was not required. But, there are so many deviant judges; so many stories have come up now. Therefore, I want to request the hon. Law Minister, who is capable enough to work hard on that measure which he is getting before the House. So, I want to say mat he must take notice of how deviant judges can be. I gave some examples. A High Court is taking objection to the Law Minister to provide figures on how many cases are pending in that court and the Lordships writing back to the hon. Law Minister who represents a billion people of this country telling him that it will impinge upon the autonomy of that court. So, that means, many judges have decided to be deviant. They have decided to be corrupt. The nation cannot be a passive on looker. Therefore, I want to tell my brother, who is a very competent person, that it is a very special responsibility, he is shouldering this time, to get the measure that he will name the national Judicial Commission passed by both the Houses of Parliament. We cannot allow any loopholes in that measure. Therefore, while supporting this Bill, I would say, kindly dwell deeper and don't leave any aspect out of your reach, of your scrutiny and represent the nation, represent the nation's aspirations. I would also recommend him to kindly see what is appearing in the vernacular press. Sometimes, it is the grass roots press, the Hindi press. The whole nation is crying for a judicial reform. I hope, Madam.

that our Law Minister is equal to the task. I only say that he must work hard and get that measure very immediately before the House.

उपसभापति : सिंहल साहब आप भी सपोर्ट कर दीजिए ।

SHRI B.P. SINGHAL (Uttar Pradesh): Madam, of course, I rise to support the Bill. The only thing is while he has talked about National Police Commission, I would just say one point... *(Interruptions)...*

THE DEPUTY CHAIRMAN: That is National Judicial Commission.

SHRI ARUN JATTLEY : you said 'National Police Commission'.

SHRI B.P. SINGHAL : I am so sorry.

उपसभापति : ये पुलिस भूलते नहीं है । He does not forget that he has come out of police department.

SHRI L ALITBHAIMEHTA (Gujarat): Madam, in spite of the fact that you have quoted that you won't allow any discussion on judicial reforms and all that, the members are speaking on judicial reform and judiciary. They are .... *(Interruptions)*

SHRI B.P. SINGHAL (Uttar Pradesh) : Of course National Judicial Commission, sorry if I said National Police Commission. No, no, it is not like that. The only point is that the limit was fixed at Rs. five lakhs in 1980. What is the value of Rs. five lakhs today? Nothing. The amount of Rs. five lakhs in the High Court Act was in 1966. Actually Rs. 20 lakh has been fixed as the limit because of High Court Bar. Otherwise, this should have been put at Rs. 50 lakhs. The Bar would agitate strongly if it were put at Rs. 50 lakhs. Anyway, I would like to make just one point. There is a need to bring an amendment to the Contempt of Court Act, because that is causing a lot of difficulty. A reconsideration is also needed on me immunity*that the judges are being granted in respect of registration of cases. They have become something beyond the law. So I would like to make these two points and I hope the Minister will bring something which can make the law effective everywhere uniformly. In case of contempt of court, trum should be permissible, valid reason to avoid the contempt of court proceedings against the person who is bringing out truth. With these two points, I don't suppose there is much scope to talk just now. 1 had a lot to say about judicial reforms, but you had guillotined that yourself. Madam. So thank you, very much.

THE DEPUTY CHAIRMAN: Do you know, why? Because we have had a very good discussion on Friday on Judiciary. It was a Private Member's Resolution by Mr. Soz and on which the Minister gave a very good reply. He is working in that direction. Now, there is no point in repeating the same thing at the fag end of the day because it will be only the repetition. When the legislation comes before the House, we will have good discussion on it. Now, Shri Shunmugasundaram. You too are going to support, that's it ?

SHRIR. SHUNMUGASUNDARAM (Tamil Nadu): Madam, I am supporting the Bill... (Interruption). They would not get agitated because this is Delhi High Court Bill. They don't have any quarrel on this.

SHRI N. JOTHI (Tamil Nadu): They are totally dependent on Delhi.

SHRI R. SHUNMUGASUNDARAM : Madam, the proposed increase in the monetary jurisdiction is made with an object of lessening the burden of courts. The monetary jurisdiction lias been raised from Rs. 5 lakhs to Rs. 20 laklis. This, by itself, will not do any good. This will only reduce the number of cases. The burden is going to be shifted to the lower courts which are already overburdened. This amount of Rs. 20 lakhs as the hon. Member, Shri B.P. Singhal, has just now mentioned in this House and as you Madam have mentioned, is too small. It has to be increased. But I would rather suggest to the hon. Minister, let this monetary jurisdiction be fixed at Rs. 20 laklis. Let us give power to the High Court itself. Let the Chief justice of the High Court constitute a three-Judge Committee, from time to time, to decide whether a particular case, though its monetary jurisdiction is Rs. 20 lakhs and beyond, is required to be decided by the High Court, or, whether it is desirable that the High Court should deal with such a case. Otherwise the High Court should be given power to transfer that case to the subordinate court. If that power is given, it will further lessen the burden. This suggestion may be considered by the hon. Minister.

Madam, the discussion on the judicial reform last Friday was a very good discussion and the hon. Minister had informed this August House that he was going to come forward with a National Judicial Commission. In that regard, I would like to make one suggestion. Earlier there was a recognised role for the State. The State Chief Minister or the State Government was involved in suggesting the names of High Court Judges. In this regard, I had written a I stter lo the hon. Law Minister on 16th October, 2002. This is relating to an earlier letter of the Law Department, D O. No.K. 11011/3/2002-US(2)/653 dated 24th

September, 2002 addressed to Dr. Kalaignar M. Karunanidhi, the President of the DMK party. I will just read out the relevant portion:

"We wish to inform that there is no mention about the role of the Chief Ministers, that is, the State Governments, in the appointment of High Court Judges in the contemplated National Judicial Commission. This will create an impression that there would not be any role at all for the Chief Ministers in the appointment of Judges of the High Courts, if the proposed Commission is constituted. We, therefore, request you to inform us about the role of the Chief Ministers or the State Governments in the appointment of Judges, after having constituted the National Judicial Commission, at your earliest convenience."

Therefore, this may also be considered.

I would like to make one more request to the hon. Minister with regard to the National Judicial Commission, which is going to be set up. Let there be some provision regarding the representation for the Backward Classes, minorities and women in the appointment of High Court Judges. With these words, I support the Bill. Thank you.

THE DEPUTY CHAIRMAN: Is it on the lines of Maharashtra? In Bombay, we have the Long Causes Court and the Short Causes Court. Do you think of a similar kind of thing here?

SHRI N. JOTHI: Madam, in Tamil Nadu, as far as the Madras High Court is concerned, we have enhanced the jurisdiction by an Executive order. No law passed by the Parliament or the State Legislature is necessary. May be, here the situation is different.

THE DEPUTY CHAIRMAN: It is a Union Territory.

SHRI N. JOTHI: That is the problem. Otherwise, we can do it by an Executive order.

SHRI ARUN JAITLEY : Madam, as far as Delhi is concerned, the query which came from the Chair, you have the Civil Judges, you have the Additional District Judges and you have the High Court, all three depending upon the monetary value, have a separate pecuniary or monetary jurisdiction. From a Civil Judge, the appeal will go to the District Judge and from the District Judge, the second appeal will go to the High Court. So, these monetary limits are repeatedly revised.

One suggestion has been made is, why don't you make it unlimited. This debate has been on. We also respect the view, which the full court of the Delhi High Court takes in this regard. We also respect the view, which the Government of Delhi also takes in this regard. And on a balanced view, while increasing it from five to twenty lakhs, you have also to bear in mind the kind of litigation, which goes to each High Court. There is a contrary view also which is normally expressed that you have cases of international joint ventures, cases relating to intellectual property rights, cases relating to international commercial arbitrations and also cases where stakes of commercial nature are very high. Therefore, some people felt that the preservation of the original figure for some of these cases may be necessary. These cases need not go as far as subordinate corals conncemed.

Taking all these factors into consideration, the court's own opinion was also that the jurisdiction should be vested at twenty lakhs and it is also the view of the Government of Delhi; we will respect that view for the time being.

Madam, the second question was raised with regard to the Contempt of Courts Act. The hon. Member has demanded that something should be done. The hon. Member should be aware that the Cabinet has already taken a decision to do precisely what he has suggested. It is only tomorrow morning that the Bill is listed for introduction in the other House, and, thereafter, when it comes to this House, the hon. Member will get an opportunity to express his views.

Madam, with regard to the National Judicial Commission, last evening, the Cabinet has taken a decision, but we must bear one factor in mind when all these suggestions have been made. On the one hand, you have judicial independence and on the other, there is debate about the mode of appointment and accountability. The mode of appointment must be such that it can involve the best appointees to come up, who has primacy, then these issues become secondary. But the ultimate objective is to select the best people for that job and also the accountability mechanism must be such that it is not accountability to the Executive, because there is conceptual debate that accountability to the Executive itself can otherwise interfere with judicial independence. So, the accountability mechanism also in the Bill, which we have proposed, is to a new institution which is going to be created.

An hon. Member from Tamil Nadu is right when he said that even though the Constitution said that the President has to consult the Judges and the Chief Ministers, but the role of Chief Ministers in the appointment of Judges to their

own High Courts, except for their formal view being sought and some limited considerations being given to the views, has by and large been obliterated.

It is, therefore, for that reason, that in the proposed Constitution Amendment Bill, which we shall be introducing in due course in the Parliament, the Cabinet has approved that the Chief Justice of a High Court and the Chief Minister of a State, when it comes to appointment of Judges to their own High Court, will be Members of the collegium which is sought to be created under the National Judicial Commission. This factor also we kept in mind.

With these words, Madam, I commend to this hon. House that this Bill be accepted and approved.

THE DEPUTY CHAIRMAN: The question is:

That the Delhi High Court (Amendment) Bill, 2003 as passed by Lok Sabha be taken into consideration.

The motion was adopted

THE DEPUTY CHAIRMAN : I shall now take up clause-by-clause consideration of the Bill.

Clauses 2 to 4 were added to the Bitl

Clause 1, the Enacting Formula and the Title were added to the Bill

SHRI ARUN JATTLEY: Madam, I move:

That the Bill be passed.

The question was put and the motion was adopted

THE DEPUTY CHAIRMAN : Thank you very much. We did a good job today. The House is adjourned till 110' clock tomorrow.

The House then adjourned at forty minutes past five of the clock till eleven of the clock on Thursday, the 8th May, 2003